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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,990

12/10/2003

Richard Charles Gordon Cooper

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01/07/2011

EXAMINER

SORIANO, BOBBY GILES

ART UNIT

PAPER NUMBER

3769

MAIL DATE

DELIVERY MODE

01/07/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/730,990	Applicant(s) COOPER, RICHARD CHARLES GORDON	
	Examiner Bobby Soriano	Art Unit 3769	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 3, 2010 has been entered.

Response to Arguments

The Examiner notes that the present application has been transferred from the previous Examiner, Michael Astorino. Accordingly the Applicant is invited to request an interview to discuss any matter not currently on record that may advance prosecution of the case.

Applicant's arguments filed August 3, 2010 have been fully considered but they are not persuasive. The Applicant makes several arguments: that the applied prior art does not teach an apparatus for assessing the psychological state of an individual based on that individual experiencing an actual psychological event or actual experience arising from relationships; that the applied prior art does not disclose a "scale" wherein the scale defines a range of values indicative of psychological state; and that the manual as disclosed in Lennox does not disclose the manual of the present invention as recited in the claims. The Examiner disagrees with the Applicant's position.

As to the first point, the phrase "psychological state" broadly interpreted can reference a wide variety of mental conditions in regards to a wide variety of personal relationships. The

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Applicant mentions several examples in paragraphs [0015], [0016], [0045], and [0048] of the Applicant's specification wherein a psychological state in which the apparatus can assess includes conditions between parent – child relationships. Accordingly because the applied prior art Fruge discloses assessing a behavioral relationship between a child and their parent, the applied prior art sufficiently meets the claim limitation. Furthermore although Fruge discloses the parent assessing the child's psychological state as opposed to the child performing the assessment, neither the claimed invention nor the Applicant's specification preclude another individual from using the claimed measurement device (see Applicant's specification paragraph [0036]; the only method step involving an "operation" by the individual is referencing a manual see steps "b" and "e" of claim 13).

As to the second point and as cited by the previous Examiner, Fruge discloses a scale in the form of equidistant spaces. These spaces, correctly identified by the Applicant as spaces #22 in Fig. 1, provide a qualitative and quantitative value of the relationship between child and parent because the number of spaces and categories 24a-f in which the repositionable marker moves across indicates a relative value of the psychological relationship between the parent and child (Fruge column 7, lines 61-67, column 8, lines 1-14; and/or column 9, lines 31-57 wherein a level of satisfaction that the child is behaving properly is assessed between the parent and child).

As to the third point, it is the Examiner's position that although Lennox is directed towards referencing a point value score as opposed to an experience as asserted by the Applicant, Fruge in view of Lennox still sufficiently meets the claimed process of steps b-f in what amounts to referencing an instruction manual to determine how to operate a device, and furthermore that it would be obvious to anyone to reference a manual in order to clarify an event, category,

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experience, etc. Furthermore the Applicant provides an example in paragraph [0054] of the specification wherein the claimed manual merely consists of associating events with a point value, which is the same guidance provided by the reference Lennox. Accordingly it is the Examiner's position that the claimed subject matter is anticipated by the applied prior art. The rejection under 35 U.S.C. 103(a) from the previous office action has been slightly modified below to take into account the Examiner's position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fruge US Patent Number 5,954,512 in view of Lennox et al. US Patent Number 6,631,904 (as cited by the previous Examiner).

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Fruge teaches a mountable apparatus (figures 1, 3a, and 4) for assessing a psychological state arising from relationships and for marking a value associated with one or more events or experiences of an individual, the apparatus including a measurement device (10 or 10a), and said measurement device having a scale and a repositionable indicator (Fig. 1 marker #26 moved over scale #22, see column 7, lines 61-67, column 8, lines 1-14; and/or column 9, lines 31-57). Fruge provides qualitative and quantitative values because the scale uses treats, allowances, and bonus stars, and the scale has equidistant spaces which are equivalent to a numerical value.

Fruge lacks a manual but provides example instructions for deductions points from the scale (column 8, lines 8-13). However Lennox et al., a reference in an analogous art, describes using a manual repeatedly to assess point values (Fig. 3 as disclosed in column 3 lines 7-10 wherein the user's can reference the chart as a guide to determine associated points and activities with a certain category). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the instructions of Fruge in view of written instructions of Lennox et al., since Lennox et al. states doing so provides users with a means for referencing pre-defined rules for operating a device, in this case the game (Lennox column 3, lines 7-10).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bobby Soriano whose telephone number is (571)270-7030. The examiner can normally be reached on Monday thru Friday, 10:30am to 6:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Johnson III can be reached on 571-272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bobby Soriano/
Examiner, Art Unit 3769

/Eric F Winakur/
Primary Examiner, Art Unit 3777

December 29, 2010